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U.S. Department of Homeland Security  
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Washington, DC 20536



**U.S. Citizenship  
and Immigration  
Services**

*Handwritten signature/initials*

[Redacted]

FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: **MAY 11 2004**

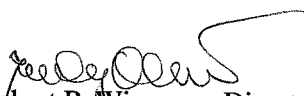
IN RE: Applicant: [Redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*for*   
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application for TPS because the applicant failed to establish: 1) she was eligible for late registration; 2) she had continuously resided in the United States since December 28, 1998; and 3) she had been continuously physically present in the United States since January 5, 1999.

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee Citizenship and Immigration Services (CIS) has accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case. 8 C.F.R. § 103.3(a)(2).

A motion to reopen must state the new facts to be provided at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy, and must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The applicant, on appeal, explained that she was a minor when she entered the United States in November 1998. She stated that she was unable to submit an application for herself until May 2002. The applicant does not specify any "new facts to be provided," nor is the appeal "supported by affidavits or other documentary evidence" as is required of motions to reopen in 8 C.F.R. § 103.5(a)(2). The applicant does not establish that the decision was incorrect or support the appeal with any pertinent precedent decisions as is required of motions to reconsider in 8 C.F.R. § 103.5(a)(3). Therefore, this untimely appeal will not be considered a motion under 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director's decision to deny, dated December 19, 2002, clearly advised the applicant that any appeal must be filed within thirty days of the service of the decision. Coupled with three days for mailing, the appeal, in this case, should have been filed on or before January 21, 2003. The record reflects that the applicant submitted a Form I-290B, Notice of Appeal, on January 16, 2003; however, she had not signed the appeal form and it was rejected and returned to her for her signature. The properly signed appeal was received at the Vermont Service Center on February 18, 2003.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.

  
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**ORDER:**      The appeal is rejected.